

1 JUDGE STEINBERG: Let's go to 1 p.m.

2 MR. RILEY: It's possible that it won't go past
3 that.

4 BY MR. RILEY:

5 Q Mr. Loginow, do you have the Hearing Designation
6 Order in this case with you?

7 A I believe that was just given to me. Yes, I do.

8 Q Would you look at paragraph eight?

9 A Okay.

10 Q Now, let me show you a copy, unless you have it up
11 there with you, Bureau Exhibit 4, which is your inspection
12 report?

13 A Okay.

14 Q This same document is in the record several times
15 in Bureau exhibits, but I'm directing you to Bureau Exhibit
16 4.

17 A I have that.

18 Q It has a stamp number page 83 at the bottom of it?

19 A Eight-three.

20 Q Well, you have the same document at page 250 or
21 something. It's another Bureau exhibit. It's an attachment
22 to your statement in this case, as well.

23 JUDGE STEINBERG: Let's all look at the same page.

24 Let me see what Mr. Loginow is looking at. Mr. Loginow is
25 looking at page 254. Is that okay, Mr. Riley?

1 MR. RILEY: That's the same document. It's also
2 at page 83, Your Honor, of Bureau Exhibit 4. It's the first
3 page of your two page report on the April and May, 1995
4 inspection.

5 BY MR. RILEY:

6 Q I didn't introduce myself, although we met the
7 other day. I'm counsel for Monticello Mountaintop
8 Broadcasting.

9 A Yes, sir.

10 Q Will look down that page just below midway point,
11 there's a headline, an underlined statement, WXTM main
12 studio transmitter, do you see that?

13 A Yes.

14 Q Would you read the first sentence of that aloud?

15 A "WXTM main studio desk transmitter control."

16 Q Now, the first sentence under that heading?

17 A "There is no remote control equipment installed at
18 the main studio to control the WXTM transmitter, or to read
19 transmitter operating parameters."

20 Q Now, did you provide to the Mass Media Bureau or
21 to any other branch of the Federal Communications Commission
22 prior to the adoption of the Hearing Designation Order in
23 this case any further written reports concerning the April
24 and May, 1995 inspections?

25 A Not other than may be contained in the

1 supplements.

2 JUDGE STEINBERG: The e-mails?

3 THE WITNESS: I mean, answers to the -- no, that's
4 not what you're speaking of?

5 BY MR. RILEY:

6 Q I'm talking about written reports --

7 A No, no.

8 Q -- that you've created?

9 A I have not, no.

10 Q Now, the Hearing Designation Order was adopted and
11 released in April of 1997, so that's the period we're
12 talking about, from April of 1995 to April of 1997.

13 A No, I have not.

14 Q You're sure of that?

15 A Yes.

16 Q Did you convey orally to the Mass Media Bureau or
17 to any other Commission employee further information
18 concerning the installation of remote control equipment at
19 the WXTM main studio prior to adoption of the Hearing
20 Designation Order?

21 A I don't believe so, no.

22 Q Am I right in believing that the sentence you read
23 aloud at page 254 of Bureau Exhibit 16 where it states there
24 is no remote control equipment installed at the main studio,
25 that main studio is the WXTM main studio, is that right, the

1 one you visited?

2 A In Ferndale, New York, correct.

3 Q In Ferndale, New York?

4 A Correct.

5 Q That's what you're referring to?

6 A That's what I'm referring to.

7 Q Now, when you look at paragraph eight of the
8 Hearing Designation Order, and I direct your attention --
9 now, this is the page that has the page number four at the
10 bottom of the Hearing Designation Order. Are you on the
11 same page I'm on?

12 A Yes.

13 Q I direct your attention to the sentence beginning
14 the fifth line from the bottom of paragraph eight. Would
15 you read that aloud?

16 A Beginning with further?

17 Q Yes.

18 A "Further, while the FCC field engineer was not
19 able to determine whether there was remote control equipment
20 installed at the main studio to control the WJUX transmitter
21 or read its operating parameters, he did determine that the
22 WJUX transmitter was being controlled full time through
23 telephone lines by personnel at Turro's Dumont studios."

24 Q Now, I ask you, Mr. Loginow, which FCC field
25 engineer do you believe this Hearing Designation Order is

1 referring to?

2 A It's referring to me.

3 Q Well, is the Hearing Designation Order then
4 inaccurate in that statement?

5 MR. ARONOWITZ: Objection, Your Honor.

6 JUDGE STEINBERG: Why don't you ask it
7 differently?

8 MR. RILEY: I will, Your Honor. I'd be glad to.

9 BY MR. RILEY:

10 Q Did you, at some date after the written report,
11 tell anyone else at the Federal Communications Commission,
12 the Mass Media Bureau or any other branch -- your own
13 branch, anyone -- that you were unable to determine whether
14 there was remote control equipment installed at the Ferndale
15 studio?

16 A I don't specifically recall, no.

17 Q Well, you must recall whether you did or not,
18 because it's a direct contradiction of what's in your
19 written report.

20 A Well, we talked about lots of matters and whether
21 I specifically changed that statement, I just don't
22 recollect. I don't recall.

23 Q What would have prompted you to change it after
24 rendering a written report?

25 MR. ARONOWITZ: Excuse me, Your Honor.

1 JUDGE STEINBERG: Yes?

2 MR. ARONOWITZ: I'm not --

3 MR. RILEY: Is this an objection, Your Honor?

4 JUDGE STEINBERG: I think it is.

5 MR. ARONOWITZ: It is. I'm not sure I understood.

6 Could I hear the question again?

7 JUDGE STEINBERG: Okay, no, you can't hear it
8 back. Basically, the written statement, page 254, says
9 there is no remote equipment installed that's capable of
10 doing this and the other thing.

11 The HDO says the field engineer was not able to
12 determine whether there was. So, if we follow the written
13 statement, then the HDO should have said there's no remote
14 control equipment.

15 MR. ARONOWITZ: All right.

16 JUDGE STEINBERG: The second point, which Mr.
17 Riley hasn't gotten to --

18 MR. ARONOWITZ: Well, Your Honor --

19 JUDGE STEINBERG: -- is the last clause, he did
20 determine that it's being controlled --

21 MR. ARONOWITZ: Is Mr. Riley asking would Mr.
22 Loginow change the HDO?

23 JUDGE STEINBERG: No, no, no.

24 MR. RILEY: Not at all.

25 JUDGE STEINBERG: What Mr. Riley is trying to

1 determine is how the statement there is no remote, whether
2 at some subsequent point in time, subsequent to the creation
3 of page 254 by Mr. Loginow, whether after that Mr. Loginow,
4 whether he changed that statement from there is no equipment
5 to he can't determine whether there is remote control
6 equipment. I think that goes to the consistency of the
7 statements.

8 MR. ARONOWITZ: Okay, I wasn't sure exactly.

9 JUDGE STEINBERG: So, if it's an objection, it's
10 overruled.

11 MR. ARONOWITZ: Okay.

12 JUDGE STEINBERG: If it's an inquiry, it's
13 answered.

14 BY MR. RILEY:

15 Q Mr. Loginow, do you have my question in mind? Let
16 me reformulate it. I think this is the question Mr.
17 Aronowitz was objecting to, is the one I meant to have you
18 answer. In your answer to the last preceding question, you
19 seemed to allow for the possibility of something you don't
20 recall, which is somehow conveying further information --

21 A That's correct.

22 Q -- to some other member of the FCC staff. I asked
23 you what would have prompted you to convey information that
24 would alter the sentence we've been focusing on on page 254,
25 alter what is stated in that sentence?

1 A What would have prompted me?

2 Q Yes, sir.

3 A A question from whomever I was speaking with.

4 Q But, had they asked you a question, you would have
5 had to had some reason for altering the statement, would you
6 not?

7 A That's correct.

8 Q Let's suppose somebody asked you the question, do
9 you want to alter the statement there is no remote equipment
10 installed?

11 A No, that is the true statement. There is no
12 remote control equipment installed.

13 Q Well, then, if I'd asked you do you want to alter
14 that statement, you would have said I don't want to alter
15 it, wouldn't you?

16 A That's correct.

17 Q Well, then, again, I ask you, you personally,
18 because obviously you can't give me information beyond it,
19 do you know of any other person that would have provided
20 information to anyone else at the FCC concerning -- any
21 person being an employee of the FCC -- let me start this
22 over not to confuse you.

23 Do you know any other person in the employ of the
24 FCC who would have conveyed, who did convey information to
25 anyone else at the FCC concerning the remote control

1 equipment installed at the Ferndale main studio of what is
2 now WJUX?

3 A No, I'm not aware of any other person, no.

4 Q Are you familiar with the name Judah Mansbach?

5 A Yes.

6 Q Who is he?

7 A He is another staff engineer at the New York
8 office.

9 Q Has he also visited that building in Ferndale, New
10 York?

11 A I don't believe he has.

12 Q Ever?

13 A To my knowledge, no.

14 JUDGE STEINBERG: To the best of your knowledge?
15 He might have been there, but you don't know it?

16 THE WITNESS: That's correct, to the best of my
17 knowledge, he has never visited.

18 BY MR. RILEY:

19 Q My question is aimed at the building in Ferndale,
20 New York, which houses other stations and houses stations in
21 addition to WJUX. I'm talking about the building, not
22 merely to do with an inspection of WJUX.

23 A Right.

24 Q You're unaware of Mr. Mansbach having visited that
25 facility?

1 A That's correct. I am unaware of most of Mr.
2 Mansbach's or any other staff engineer's whereabouts at any
3 time.

4 Q Do you ever talk with one another about stations
5 you've visited?

6 A On occasion. Not too frequently.

7 Q You've never talked with Mr. Mansbach about his
8 inspections in the building in Ferndale?

9 A No. No, we have not.

10 Q So, now, at the end of this, it is your position
11 even today as you said, that your report concerning the
12 remote control equipment at the main studio that is on page
13 254 of Mass Media Bureau Exhibit 16 is correct?

14 A That's a correct statement.

15 Q In answer to a written interrogatory by Monticello
16 Mountaintop Broadcasting, Inc. to you, it was Monticello
17 Mountaintop Interrogatory 16, and this is in Bureau Exhibit
18 19, for ease of reference, and it's at page 357. What
19 Bureau Exhibits do you have in front of you?

20 A No, these are Turro Exhibits, I believe. Can you
21 give me the Turro number?

22 MR. RILEY: Your Honor, I'd like to show these --

23 JUDGE STEINBERG: They're there. Well, they might
24 not be.

25 MR. RILEY: I'd like to refer the witness, Your

1 Honor, to Bureau Exhibit 19 and Bureau Exhibit 17, which I
2 think both parties should have. First, Your Honor, I'm
3 putting in front of Mr. Loginow Bureau Exhibit 19. It's
4 stamped page 357, and I direct your attention to
5 Interrogatory 16.

6 THE WITNESS: Sixteen --

7 JUDGE STEINBERG: Just read to yourself.

8 THE WITNESS: Okay.

9 BY MR. RILEY:

10 Q Now, let me direct your attention to Interrogatory
11 -- keep this in front of you, if you would, Mr. Loginow,
12 Interrogatory 16B and the answer that you provided, this
13 being at Bureau Exhibit 16 --

14 JUDGE STEINBERG: Seventeen.

15 MR. RILEY: I'm sorry, Your Honor, Bureau Exhibit
16 17, stamped page 266 to Interrogatory 16B.

17 BY MR. RILEY:

18 Q Do you see this?

19 A Yes.

20 Q Now, would you read aloud --

21 MR. ARONOWITZ: Your Honor, we're just trying to
22 locate the document Mr. Riley referred to.

23 JUDGE STEINBERG: Okay, just hold up. Page 357
24 and page -- 357 is the question and 266 is the answer.

25 MR. ARONOWITZ: Okay, okay.

1 BY MR. RILEY:

2 Q Directing your attention, Mr. Loginow, to
3 Interrogatory answer 16B on page 266, it states, "Turro and
4 Blabey specifically stated..." this being your answer, Mr.
5 Loginow.

6 A Right, yes.

7 Q "Turro and Blabey specifically stated that there
8 was no remote control at the WXTM studios..." Now, there's
9 a semi-colon. I'm not going on to the rest of this right
10 now. But, that's an accurate reading of your answer to this
11 interrogatory, is it not?

12 A Yes.

13 Q That is consistent with the report of your April
14 13, 1995 inspection about which I questioned you moments
15 ago, is it not?

16 A That's correct.

17 Q Now, is it the case that both of those statements
18 are untrue?

19 A Is it the case they're untrue?

20 JUDGE STEINBERG: Which statements?

21 BY MR. RILEY:

22 Q That there is no remote control at the WXTM
23 studios. Both times you had that, in your April 1995 report
24 and in your answer to this interrogatory?

25 A Yes.

1 Q Is it the case those statements are untrue?

2 A Yes, most definitely.

3 Q They are --

4 A Oh, that they are untrue? No, it's not the case.

5 Q Were you not told on April 13, 1995 by Mr. Turro
6 that there was a telephone dial up remote control capability
7 for this transmitter?

8 A Yes, that's correct.

9 Q You've never reported that anywhere, have you?

10 A No, I have not.

11 Q Would it not be an accurate assessment that Mr.
12 Turro did not specifically state to you that there was no
13 remote control at the WXTM studio?

14 A No, that's not true. He did specifically state
15 there was no remote control equipment installed at the
16 studio.

17 Q Well, your answer to this interrogatory does not
18 say that Mr. Turro told you there was no remote control
19 equipment at the WXTM studio. It says, "Turro and Blabey
20 specifically stated that there was no remote control at the
21 WXTM studio."

22 Now, Mr. Turro did not tell you that, did he?

23 A It was actually no remote control equipment.

24 Q Well, isn't a telephone, when it's equipped to a
25 telephone dial up remote control, a station equipped with

1 telephone dial up remote control, the telephone set itself
2 becomes remote control equipment, does it not?

3 A No, it doesn't, not until you're actually using
4 it.

5 Q You mean that if I had a telephone sitting here
6 and was speaking with my wife, that it would not be remote
7 control equipment?

8 A That's correct.

9 Q If I then hang up on my wife and dial the
10 telephone number for the remote control equipment at the
11 radio station and enter the code word if needed, and then
12 begin to use that telephone to turn it on and off or to
13 access a power meter, that is remote control equipment, is
14 that right?

15 A That's correct.

16 Q Now, there were telephones in the Ferndale
17 building, were there not?

18 A That's correct.

19 Q Mr. Turro, on April 13, told you that there was
20 telephone dial up remote control for this radio station, did
21 he not?

22 A That's correct, but the rules require that it has
23 to be a dedicated telephone line.

24 Q What rules?

25 A The FCC rules.

1 Q Now, let me ask you this question and this is not
2 a departure from this line, but when CIB or its predecessor,
3 FOB, is expecting a broadcast station as opposed to a ship
4 to shore station or a cable television microwave, you're
5 inspecting a broadcast station now, you're inspecting it for
6 compliance with rules of the Mass Media Bureau, are you not?
7 The rules of the Federal Communications Commission --

8 A Right, FCC rules.

9 Q -- to which broadcast stations are subject, is
10 that not what you're inspecting?

11 A Yes, that's correct.

12 Q You're not inspecting for compliance with the
13 particular favored views or policies of CIB? You're
14 inspecting for compliance with rules of the FCC, pertinent
15 to broadcast stations, is that correct?

16 A The history of the rules and the policies
17 certainly do come into effect, also.

18 Q The rules that are pertinent to operation of the
19 station are the rules that radio stations must observe, is
20 that not so?

21 A That's correct.

22 Q Now, are you telling me that in April of 1995, a
23 radio broadcast station could not be operated by telephone
24 dial up remote controls, using the public switch network
25 under the rules of the FCC?

1 A There's a lot of guidelines and specifications
2 that go along with that capability.

3 Q You're changing your answer. You said a moment
4 ago that you had to have a dedicated line. Now, are you
5 telling me that you can use the public switch network
6 subject to certain conditions, is that what you're telling
7 me?

8 A Yes, that's correct.

9 MR. RILEY: Your Honor, I would like to break for
10 lunch, because I'd like to shorten this, but it could go
11 much longer.

12 JUDGE STEINBERG: You're going to use your lunch
13 break to shorten it?

14 MR. RILEY: I may use my lunch break to lengthen
15 it. But, Mr. Loginow, without trying to argue --

16 JUDGE STEINBERG: Okay, if you want to break for
17 lunch, we'll break for lunch. Does everyone want to break
18 for lunch?

19 MR. NAFTALIN: Sure.

20 MR. ARONOWITZ: Well, maybe I could make Mr.
21 Riley's lunch a little more enjoyable by raising an
22 objection to his last question.

23 JUDGE STEINBERG: It's too late for that, because
24 it's been answered.

25 MR. ARONOWITZ: Well, is this a good place to

1 break? How's that question?

2 JUDGE STEINBERG: That's a great question. Yes,
3 it's a good place to break. Do you object to the break?

4 MR. ARONOWITZ: For the reason stated, yes.

5 MR. RILEY: I'll go forward, Your Honor, but I
6 think I'm entitled --

7 JUDGE STEINBERG: I haven't heard anything that
8 Mr. Riley's been asking that's improper or irrelevant.

9 MR. ARONOWITZ: I may be premature here. I was
10 just a little too much help here, Your Honor.

11 JUDGE STEINBERG: If everybody wants to break,
12 we'll take a break. I don't care. We're going to spend the
13 same amount of time in the hearing room whether we break now
14 or later.

15 MR. ARONOWITZ: I obviously don't object to the
16 break time.

17 JUDGE STEINBERG: Let's be back here at 1:45.

18 MR. RILEY: Fine, Your Honor.

19 (Whereupon, at 12:35 p.m., the hearing was
20 recessed, to reconvene at 1:45 p.m. this same day, Tuesday,
21 December 2, 1997.)

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A F T E R N O O N S E S S I O N

1:45 p.m.

JUDGE STEINBERG: Back on the record.

MR. RILEY: Your Honor?

BY MR. RILEY:

Q Mr. Loginow, further on the subject of remote control for what is now station WJUX, you've admitted now that Mr. Turro did tell you on April 13 that there was telephone dial up remote control for WXTM, now WJUX, and you've acknowledged that that is not included in your report of the April inspection to the FCC, nor for that matter was it revealed to me in response to my interrogatory.

JUDGE STEINBERG: Break it down.

BY MR. RILEY:

Q Okay, you've acknowledged that it was not included in the written report of your April inspection that you rendered to the Mass Media Bureau, is that correct?

A That's correct.

Q It was not included in your response to Interrogatory 16B of the Monticello Mountaintop Broadcasting, is that correct?

A That's correct.

Q But, now, in my questioning, you have acknowledged that telephone dial up remote control -- I think you've acknowledged this. This is one thing I want to be sure of.

1 Telephone dial up remote control, using the public switch
2 telephone network is permitted under the rules of the FCC
3 for broadcast stations. Let me not say this is your former
4 testimony. Let me just ask the question. Is that true?

5 MR. ARONOWITZ: Objection. Are you asking Mr.
6 Loginow for a legal conclusion or his opinion?

7 MR. RILEY: Your Honor, he's here as an FCC
8 inspector who goes out and checks broadcast stations and
9 renders reports to the Commission on whether these stations
10 are or are not in compliance with FCC rules pertinent to
11 broadcast stations.

12 JUDGE STEINBERG: Frame it in terms of in his
13 opinion as an FCC person that does this, as opposed to the
14 flat out legal conclusion.

15 MR. RILEY: I didn't think of it as a legal
16 conclusion.

17 JUDGE STEINBERG: Neither did I, but I can
18 understand why the objection was made.

19 BY MR. RILEY:

20 Q You function as an inspector in the Complaints and
21 Information Bureau, the former Field Operations Bureau?

22 A Yes, that's correct.

23 Q Among your duties is inspecting broadcast
24 stations, radio and television?

25 A That's correct.

1 Q To perform that function, have you familiarized
2 yourself with Part 73 of the FCC's rules, which is that part
3 that's pertinent to the operations of broadcast radio
4 stations?

5 A Yes.

6 Q Now, in looking at April of 1995 when you
7 performed this inspection, was it your judgement, and I
8 don't ask you this as a qualified expert and I should tell
9 you, Your Honor, I'm not asking him as a qualified expert,
10 but was it your judgement and your role as an FCC field
11 inspector that telephone dial up remote control of broadcast
12 radio stations using the public switch telephone network,
13 was permitted under the rules?

14 A In certain instances, yes.

15 Q Now, did you not tell me no more than a week ago
16 that it was not, and it was not because CIB did not approve
17 it?

18 A In that particular installation, it did not appear
19 to meet all the various guidelines and the history relating
20 to remote control, and that's why I did not regard it as a
21 valid remote control equipment.

22 Q Which particular installation?

23 A Installation at WJUX.

24 Q In Ferndale?

25 A Correct.

1 Q But, now, I appreciate that answer, but my
2 question to you is, was it your prior position on this point
3 when you and I discussed it last that telephone dial up
4 remote control is not considered by CIB to be a viable
5 remote control system at large?

6 A At large? No, it is.

7 Q It is?

8 A Yes.

9 MR. RILEY: Your Honor, may I approach the witness
10 with his prior sworn testimony on this report?

11 JUDGE STEINBERG: Sure.

12 MR. RILEY: For other counsel, I'm looking at Mr.
13 Loginow's deposition and at page 115 --

14 MR. ARONOWITZ: I have no objection to Mr. Riley
15 using it, but I did want to point out for the record that
16 this transcript of Mr. Loginow's deposition was only
17 provided to counsel, Bureau counsel last night, late in the
18 afternoon, and I just want it noted for the record that we
19 had anticipated consistent with representations that the
20 transcript might be available before the end of the day of
21 yesterday. So, I just want that noted for the record.

22 JUDGE STEINBERG: Okay.

23 MR. RILEY: You do have a copy of the transcript?

24 MR. ARONOWITZ: Yes.

25 MR. RILEY: I'm referring Mr. Loginow to

1 transcript page 115, Your Honor.

2 JUDGE STEINBERG: Okay.

3 THE WITNESS: I have it.

4 BY MR. RILEY:

5 Q Oh, you have a copy?

6 A Yes, I do.

7 Q Mr. Loginow, on that page, let me refer you to a
8 line number in the margin. Let me refer you to line 19 and
9 shorten this and not go through the whole thing. Line 19
10 you begin an answer. You say, "He..." That he is Gerry
11 Turro, is that correct?

12 A Yes.

13 Q Your answer is, "He also said there is a telephone
14 dial up circuit is available." That's after I had asked you
15 a series of questions about remote control, is that right?

16 A That's correct.

17 Q You revealed that to me. Now, let me drop you
18 down to line 23. My question to you, why is that not
19 anywhere in here? What I'm asking you about is your
20 response to my interrogatory question 16B, where although we
21 could refer to any document, but that was what I at that
22 point had, because your response to that was that Mr. Turro
23 told you that there was no remote control at the WXTM
24 studios. So, I asked you, why is that not anywhere in here?
25 Do you see that question?

1 A Mm-hmm, yes.

2 Q What was your answer to that?

3 A What's the question again?

4 Q I'm looking at line 23 and I'm asking you to now
5 look at line 24.

6 A The answer here is, "It's not considered to be a
7 viable remote control."

8 Q I asked you then at the top of page 116, "By
9 whom?" What was your answer to that question?

10 A I have to read it. "By the CIB."

11 Q Now, that was not in the context of the
12 installation at Ferndale that you gave me that answer. That
13 was an at large answer, was it not? At large, that is, CIB
14 does not consider this -- forget about Ferndale, New York,
15 take a point in Wyoming. CIB does not consider this to be a
16 viable remote control system?

17 A When the inspecting engineer addresses the remote
18 control such as a dial up, the initial reaction is that it's
19 a non-viable remote control, unless it has to go -- you
20 know, meet the other guidelines.

21 Q Those are?

22 A You know, such as being a dedicated -- it has to
23 be a dedicated line available continuously, exclusively for
24 that purpose only.

25 Q Where do you find that in an FCC rule?

1 A That's in the policy statement. It's not in the
2 FCC rule.

3 Q It's not?

4 A No.

5 Q Which policy statement are you talking about, Mr.
6 Loginow?

7 A One from FCC. I'm reviewing one that was issued
8 on September 12, 1988.

9 JUDGE STEINBERG: Is this what you're referring
10 to?

11 THE WITNESS: Yes.

12 JUDGE STEINBERG: It's a public notice, FCC 88-
13 194, dated September 12, 1988, and it's entitled
14 Clarification of the Commission's Rules Pertaining to
15 Broadcast Station Transmitter Remote Control Operation.
16 Does anybody know if that's published anywhere?

17 MR. RILEY: I have no idea, Your Honor, whether
18 it's citable to an FCC --

19 BY MR. RILEY:

20 Q Since you're looking at this, Mr. Loginow, I'd not
21 planned to ask you questions about it, but since you have it
22 in front of you, can you tell us whether this was issued by
23 the Federal Communication Commission's Mass Media Bureau or
24 by the Commission itself?

25 A No, I can't tell you that.

1 Q Would you agree, though, that if it was a policy
2 statement about the operation of broadcast stations released
3 by the FCC or a branch of it, that it would be binding on
4 FCC field inspectors acting for FOB or CIB?

5 A It would be something to consider as part of the
6 overall inspection.

7 Q Wouldn't it be binding upon you?

8 A I don't believe anything is binding upon an
9 inspecting engineer. It's certainly something to be
10 considered and taking it to heart.

11 Q Would that also be true of a broadcast licensee,
12 that an FCC policy statement is to be considered and taken
13 to heart?

14 A Well, the inspecting engineer has to do
15 interpreting of the rules, interpreting of any
16 clarifications.

17 Q Isn't that also true of a licensee?

18 A Yes, that's true.

19 Q A licensee looks at the rules, considers how he's
20 operating his statement, makes his very best judgement and
21 that's the licensee taking consideration of what he
22 understand the rules and the policy statements to require,
23 is that not so?

24 A That's correct.

25 Q Now, if the licensee's determination differs from